

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

TWENTY-FIFTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 19, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Reverend Mercy Hobbs, followed by the Pledge of Allegiance led by Senate page Kevin Wagner.

Roll Call: All members present except Sen. Krebs and Van Gerpen who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-fourth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named persons:

2 Pages – Paul Christenson, Adrian Del Grosso, Alexandra Mattern, Alex Nagel, Kristen
3 Rarrat, Kelcey Robbennolt, Megan Rodgers, Marie Stucke, Jenna Vogel, Kevin Wagner, Kristin
4 Wileman

5 Which was subscribed to and placed on file in the office of the Secretary of State.

6 **HONORED GUESTS**

7 The President introduced the 2013 Outstanding School Board Member, Mike Denker from
8 Wagner, and the 2013 School Board Award of Excellence recipients, the Wall School Board.
9 Members are Chairperson Scot Eisenbraun; Vice Chairman, Pam Johnson; Carolyn Anderson,
10 Todd Trask, Mary Williams, Kevin Bielmaier, and Spencer Cordes.

11 **COMMUNICATIONS AND PETITIONS**

12 February 12, 2013

13 The Honorable Matt Michels
14 President of the Senate
15 State Capitol
16 Pierre, SD 57501

17 Dear Mr. President and Members of the Senate:

18 Pursuant to the provisions of Chapter 5-12 of the South Dakota Codified Laws and subject
19 to your consent, I have the honor to inform you that I have reappointed James C. Roby,
20 Codington County, Watertown, South Dakota, to the South Dakota Building Authority.

21 This reappointment is effective immediately, and shall continue until January 16, 2017.

22 Sincerely,
23 Dennis Daugaard
24 Governor

25 The President announced the referral of the reappointment to the Committee on Commerce
26 and Energy.

1 Also MR. PRESIDENT:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has
3 had under consideration SB 203 which was tabled.

4 Also MR. PRESIDENT:

5 The Committee on Agriculture and Natural Resources respectfully reports that it has
6 had under consideration SB 228 which was deferred to the 41st Legislative Day.

7 Respectfully submitted
8 Bruce Rampelberg, Vice Chair

9 **MOTIONS AND RESOLUTIONS**

10 SCR 2 Introduced by: Senator Kirkeby and Representative Hoffman

11 A CONCURRENT RESOLUTION, Expressing support for civic education in the public
12 schools in South Dakota, and recognizing March 6, 2013, as Civic Education Day at the
13 State Capitol.

14 WHEREAS, civic education is the basis for the establishment of public education in this
15 democracy and the foundation for an informed and educated citizenry; and

16 WHEREAS, the United States Constitution, the Declaration of Independence, the South
17 Dakota Constitution, and other primary founding documents and speeches provide the structure
18 for our democracy; and

19 WHEREAS, more than eighty thousand students in South Dakota have participated in civic
20 education programs such as Kids Voting South Dakota, South Dakota Project Citizen,
21 Representative Democracy in America, and We the People, and by participating, these students
22 are more likely to become civically engaged adults; and

23 WHEREAS, the Chiesman Foundation for Democracy and the Center for Civic Education
24 support and make available civic education programs and activities for all South Dakota youth:

25 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-Eighth Legislature
26 of the State of South Dakota, the House of Representatives concurring therein, that the South
27 Dakota Legislature recognizes the importance of civic education and supports civic education
28 in all public schools in South Dakota; and

29 BE IT FURTHER RESOLVED, that March 6, 2013, be recognized as Civic Education Day
30 at the State Capitol.

1 Was read the first time, the President waived the referral to committee, and placed SCR 2
2 on the calendar of Wednesday, February 20, the 26th legislative day.

3 Sen. Olson moved that SB 44 be placed to follow SB 142 on today's calendar.

4 Which motion prevailed.

5 Sen. Olson moved that SB 159, 238, 136, and 232 be deferred to Wednesday, February 20,
6 the 26th legislative day.

7 Which motion prevailed.

8 **CONSIDERATION OF REPORTS OF COMMITTEES**

9 Sen. Olson moved that the reports of the Standing Committees on

10 Transportation on SB 154 as found on page 424 of the Senate Journal; also

11 Local Government on SB 130 as found on page 422 of the Senate Journal; also

12 Local Government on SB 180 as found on page 423 of the Senate Journal; also

13 Health and Human Services on SB 135 as found on page 424 of the Senate Journal; also

14 State Affairs on SB 82 as found on page 425 of the Senate Journal; also

15 State Affairs on SB 237 as found on page 426 of the Senate Journal be adopted.

16 Which motion prevailed.

17 **SECOND READING OF CONSENT CALENDAR ITEMS**

18 Pursuant to Senate Rule 6-1, the President removed HB 1069 from the Consent Calendar.

19 HB 1086: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
20 publication of certain records by cooperatives.

21 Was read the second time.

22 The question being "Shall HB 1086 pass?"

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
6 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
7 Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Excused:

9 Krebs; Van Gerpen

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 HB 1140: FOR AN ACT ENTITLED, An Act to revise the schedule for payment of excise
13 taxes for farm wineries.

14 Was read the second time.

15 The question being "Shall HB 1140 pass?"

16 And the roll being called:

17 Yeas 33, Nays 0, Excused 2, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
20 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
21 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
22 Sutton; Tidemann; Tieszen; Vehle; Welke; White

23 Excused:

24 Krebs; Van Gerpen

25 So the bill having received an affirmative vote of a majority of the members-elect, the
26 President declared the bill passed and the title was agreed to.

27 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

28 SB 143: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding tourist-
29 oriented directional signs.

1 Having had its second reading was up for consideration and final passage.

2 143oa

3 Sen. Tidemann moved that SB 143 be amended as follows:

4 On page 2 of the printed bill, delete lines 8 to 12, inclusive.

5 Which motion prevailed.

6 The question being "Shall SB 143 pass as amended?"

7 And the roll being called:

8 Yeas 31, Nays 2, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Hunhoff
11 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al);
12 Olson (Russell); Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
13 Tieszen; Vehle; Welke; White

14 Nays:

15 Holien; Omdahl

16 Excused:

17 Krebs; Van Gerpen

18 So the bill having received an affirmative vote of a majority of the members-elect, the
19 President declared the bill passed and the title was agreed to.

20 SB 195: FOR AN ACT ENTITLED, An Act to establish certain incentives for wind energy
21 facilities, to revise the amount that may be rebated for the gross receipts tax on electricity
22 produced on wind farms, to provide a penalty for filing a false affidavit, and to declare an
23 emergency.

24 Was read the second time.

25 The question being "Shall SB 195 pass as amended?"

26 And the roll being called:

27 Yeas 26, Nays 7, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Holien; Hunhoff (Jean); Jones; Kirkeby;
3 Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Rampelberg; Rave; Rhoden;
4 Soholt; Sutton; Tidemann; Tieszen; Vehle; Welke; White

5 Nays:

6 Ewing; Heineman (Phyllis); Jensen; Johnston; Omdahl; Otten (Ernie); Peters

7 Excused:

8 Krebs; Van Gerpen

9 So the bill having received an affirmative vote of a two-thirds majority of the members-
10 elect, the President declared the bill passed and the title was agreed to.

11 SB 183: FOR AN ACT ENTITLED, An Act to revise provisions relating to hunting
12 trespass and to increase certain penalties for trespassing.

13 Was read the second time.

14 The question being "Shall SB 183 pass as amended?"

15 And the roll being called:

16 Yeas 32, Nays 1, Excused 2, Absent 0

17 Yeas:

18 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
19 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al);
20 Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
21 Tidemann; Tieszen; Vehle; Welke; White

22 Nays:

23 Bradford

24 Excused:

25 Krebs; Van Gerpen

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 SB 142: FOR AN ACT ENTITLED, An Act to prohibit the use of certain handheld
29 electronic wireless devices for electronic messaging while driving and to prohibit conflicting
30 municipal regulations.

1 Was read the second time.

2 142fa

3 Sen. Begalka moved that SB 142 be amended as follows:

4 On page 1, line 7, of the printed bill, after "highway" insert "in a first class municipality".

5 Which motion lost.

6 The question being "Shall SB 142 pass?"

7 And the roll being called:

8 Yeas 24, Nays 9, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Buhl; Ewing; Frerichs; Holien; Hunhoff (Jean); Johnston; Jones;
11 Kirkeby; Lederman; Lucas; Monroe; Novstrup (Al); Rampelberg; Rhoden; Soholt; Sutton;
12 Tidemann; Tieszen; Vehle; Welke; White

13 Nays:

14 Brown; Heineman (Phyllis); Jensen; Maher; Olson (Russell); Omdahl; Otten (Ernie); Peters;
15 Rave

16 Excused:

17 Krebs; Van Gerpen

18 So the bill having received an affirmative vote of a majority of the members-elect, the
19 President declared the bill passed and the title was agreed to.

20 SB 44: FOR AN ACT ENTITLED, An Act to allow disqualification of commercial driver
21 licenses for violations of federal, state, or local texting bans while driving a commercial vehicle
22 to comply with federal regulations and requirements.

23 Was read the second time.

24 The question being "Shall SB 44 pass?"

25 And the roll being called:

26 Yeas 23, Nays 10, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Buhl; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Johnston; Jones;
3 Kirkeby; Lederman; Lucas; Novstrup (Al); Omdahl; Otten (Ernie); Rampelberg; Rhoden;
4 Soholt; Tidemann; Tieszen; Vehle; Welke; White

5 Nays:

6 Bradford; Brown; Frerichs; Jensen; Maher; Monroe; Olson (Russell); Peters; Rave; Sutton

7 Excused:

8 Krebs; Van Gerpen

9 So the bill having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill passed and the title was agreed to.

11 SB 182: FOR AN ACT ENTITLED, An Act to enhance economic development.

12 Was read the second time.

13 The question being "Shall SB 182 pass?"

14 And the roll being called:

15 Yeas 31, Nays 2, Excused 2, Absent 0

16 Yeas:

17 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
18 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al);
19 Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
20 Vehle; Welke; White

21 Nays:

22 Lucas; Olson (Russell)

23 Excused:

24 Krebs; Van Gerpen

25 So the bill having received an affirmative vote of a majority of the members-elect, the
26 President declared the bill passed and the title was agreed to.

27 SB 235: FOR AN ACT ENTITLED, An Act to enhance economic development
28 opportunities for the state.

29 Was read the second time.

30 The question being "Shall SB 235 pass?"

1 And the roll being called:

2 Yeas 30, Nays 3, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
5 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Omdahl;
6 Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle;
7 Welke; White

8 Nays:

9 Bradford; Lucas; Olson (Russell)

10 Excused:

11 Krebs; Van Gerpen

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 There being no objection, the Senate reverted to Order of Business No. 5.

15 **REPORTS OF STANDING COMMITTEES**

16 MR. PRESIDENT:

17 The Committee on Appropriations respectfully reports that it has had under consideration
18 SB 51 and returns the same with the recommendation that said bill do pass.

19 Also MR. PRESIDENT:

20 The Committee on Appropriations respectfully reports that it has had under consideration
21 SB 15 and returns the same with the recommendation that said bill be amended as follows:

22 15cc

23 On page 8 of the printed bill, delete lines 18 to 23, inclusive, and insert:

24 "13-37-36.1.To establish the school district special education fund statutory carryover
25 ~~excluding federal funds, the following calculations shall be performed:~~

26 ~~—(1)— Divide the total federal special education revenue by the total special education~~
27 ~~revenues and, deduct from the total ending fund balance the amount of Title VIII of~~
28 ~~the Elementary and Secondary Education Act funds receipted or transferred to the~~
29 ~~special education fund;".~~

1 On page 9, line 3, delete everything after "~~balance~~".

2 On page 9, line 4, delete "fund balance".

3 On page 9, delete lines 18 to 22, inclusive, and insert:

4 "Section 9. That § 13-37-40.1 be amended to read as follows:

5 13-37-40.1. A school district is not eligible for funding from the money set aside in §§ 13-
6 37-38 to 13-37-40, inclusive, unless the school district certifies to the secretary of education that
7 its ending special education fund balance will not exceed ~~five~~ ten percent of its special
8 education expenditures for the current fiscal year."

9 On page 10, line 3, remove the overstrikes from everything after "greater," .

10 On page 10, remove the overstrikes from lines 4 to 7, inclusive.

11 On page 10, line 5, overstrike "five" and insert "ten".

12 15cf

13 On the printed bill, delete everything after the enacting clause and insert:

14 "Section 1. That chapter 13-37 be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Up to fifteen percent of the local need as defined in subdivision 13-37-35.1(18) may be used
17 to develop and implement coordinated, early intervening services for students in kindergarten
18 through grade twelve who are not currently identified as needing special education or special
19 education and related services, but who need additional academic and behavioral interventions
20 to succeed in a general education environment to prevent them from being identified as having
21 a special education disability.

22 Coordinated, early intervening services include:

23 (1) Professional development for teachers and other school staff to enable them to
24 deliver scientifically-based academic instruction and behavioral interventions,
25 including scientifically-based literacy instruction, and, if appropriate, instruction on
26 the use of adaptive and instructional software; and

27 (2) Providing educational and behavioral evaluations, services and supports, including
28 scientifically-based literacy instruction.

29 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
30 follows:

1 A school district seeking to use funds pursuant to section 1 of this Act shall apply for
2 approval for the use of such funds from the Department of Education on forms provided by the
3 department.

4 Section 3. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any school district that uses funds pursuant to section 1 of this Act shall annually report to
7 the Department of Education on:

8 (1) The number of students who receive coordinated, early intervening services; and

9 (2) The number of students who received early intervening services, and who
10 subsequently receive special education or special education and related services
11 within two years after receiving the coordinated, early intervening services.

12 Section 4. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The Board of Education shall promulgate rules pursuant to chapter 1-26 establishing the
15 application process, the application timelines, the criteria the department will use in approving
16 a district's use of special education funds pursuant to section 1 of this Act, and the collection of
17 data on children served pursuant to section 3 of this Act.

18 Section 5. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 A school district that provides early intervening services pursuant to section 16 of this Act
21 is not eligible for funding from the money set aside pursuant to § 13-37-40 within a period of
22 three years following the expenditure of such funds."

23 15ctb

24 On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "provide
25 for expenditures for early learning services from the special education fund."

26 On page 1, delete line 2.

27 And that as so amended said bill do pass.

28 Also MR. PRESIDENT:

29 The Committee on Appropriations respectfully reports that it has had under consideration
30 SB 28 and returns the same with the recommendation that said bill be amended as follows:

28mc

On page 2, after line 13 of the printed bill, insert:

"Section 2. That § 13-37-2.1 be amended to read as follows:

13-37-2.1. As used in this chapter, the term, surrogate parent, means any individual ~~certified by the Department of Education assigned by the district~~ to act in place of the parent of a child in need of special education when the school district cannot identify or locate the parent or the child is a ward of the state.

Section 3. That § 13-37-16 be amended to read as follows:

13-37-16. For taxes payable in ~~1997~~ 2014, and each year thereafter, the school board shall levy no more than one dollar and ~~forty~~ fifty-five and two tenths cents per thousand dollars of taxable valuation, as a special levy in addition to all other levies authorized by law for the amount so determined to be necessary, and such levy shall be spread against all of the taxable property of the district. The proceeds derived from such levy shall constitute a school district special education fund of the district for the payment of costs for the special education of all children in need of special education or special education and related services who reside within the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations such that the median level of assessment represents 85% of market value as determined by the Department of Revenue. The total amount of taxes that would be generated at the levy pursuant to this section shall be considered local effort. Money in the special education fund may be expended for the purchase or lease of any assistive technology that is directly related to special education and specified in a student's individualized education plan. This section does not apply to real property improvements.

~~—For taxes payable in 2011, the total amount of revenue payable from the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes payable in 2010. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.~~

~~—Any school district created or reorganized after January 1, 2009, is exempt from the limitation provided by this section for a period of two years immediately following its creation.~~

~~—For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from the levy provided in this section may not increase more than the lesser of three percent or the index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes payable in 2010 plus any unused index factor from the previous years. After applying the index factor, a school district may increase the revenue payable from taxes on real property above the limitations provided by this section by the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.~~

1 ~~For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of one dollar and~~
2 ~~forty cents per thousand dollars of taxable valuation does not apply to any school district.~~

3 Section 4. That § 13-37-16.2 be amended to read as follows:

4 13-37-16.2. If local effort increases on a statewide aggregate basis by a greater percentage
5 than local need on a statewide aggregate basis from any one year to the next, for the following
6 year, the levy specified in subdivision ~~13-37-35.1(19)~~ 13-37-35.1(7) shall be reduced
7 proportionally so that the percentage increase in local effort on a statewide aggregate basis
8 equals the percentage increase in need on a statewide aggregate basis.

9 Section 5. That § 13-37-16.3 be amended to read as follows:

10 13-37-16.3. Any adjustments in the levy specified in subdivision ~~13-37-35.1(19)~~ 13-37-
11 35.1(7) made pursuant to § 13-37-16.2 shall be based on maintaining the relationship between
12 statewide local effort as a percentage of statewide local need in the fiscal year succeeding the
13 fiscal year in which the adjustment is made. However, for fiscal year 2014, and each year
14 thereafter, if the levy specified in subdivision 13-37-35.1(7) is not adjusted to maintain this
15 relationship, the funding allocation for each disability level as defined in § 13-37-35.1 shall be
16 reduced proportionally to maintain the relationship between statewide local effort as a
17 percentage of statewide local need.

18 Section 6. That § 13-37-18 be amended to read as follows:

19 13-37-18. Special education costs and statistical information shall be included in the annual
20 ~~application for state aid~~ financial report as provided in § 13-13-37.

21 Section 7. That § 13-37-35.1 be amended to read as follows:

22 13-37-35.1. Terms used in chapter 13-37 mean:

- 23 (1) "Level one disability," a mild disability;
- 24 (2) "Level two disability," cognitive disability or emotional disorder;
- 25 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
- 26 blindness, orthopedic impairment, or traumatic brain injury;
- 27 (4) "Level four disability," autism;
- 28 (5) "Level five disability," multiple disabilities;
- 29 (5A) "Level six disability," prolonged assistance;
- 30 (6) "Index factor," is the annual percentage change in the consumer price index for urban
31 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
32 the United States Department of Labor for the year before the year immediately
33 preceding the year of adjustment or three percent, whichever is less;
- 34 (7) "Local effort," shall be calculated for taxes payable in ~~2011 and shall be the amount~~
35 ~~of revenue that could have been generated for the taxes payable in 2010 using a~~
36 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~
37 ~~valuation increased by the lesser of three percent or the index factor, as defined in~~
38 ~~§ 10-13-38, plus a percentage increase of value resulting from any improvements or~~
39 ~~change in use of real property, annexation, minor boundary changes, and any~~
40 ~~adjustments in taxation of real property separately classified and subject to statutory~~

~~adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.~~

~~For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort shall be increased by the lesser of three percent or the index factor, established pursuant to § 10-13-38 plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value 2014 and thereafter using a special education levy of one dollar and thirty-five and two tenths cents per one thousand dollars of valuation;~~

- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2012, is \$4,525. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 2012, is \$11,124. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 2012, is \$14,788. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 2012, is \$13,204. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 2012, is \$19,993. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, 2012, is \$7,205. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;
- (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;

- (15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;
- (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age sixteen, and beginning July 1, 2009, the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:
- (a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the previous school year, the number of kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous regular school year in all nonpublic schools located within the boundaries of the public school district;
 - (b) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of less than six hundred on the last Friday of September of the previous school year, the number of resident kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous school year in all nonpublic schools located within the State of South Dakota;
- (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- (18) "Local need," an amount to be determined as follows:
- (a) Multiply the special education fall enrollment by 0.1004 and multiply the result by the allocation for a student with a level one disability;
 - (b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;
 - (c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;
 - (d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;
 - (e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;
 - (f) Multiply the number of students having a level six disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level six disability;
 - (g) When calculating local need at the statewide level, include the amount set aside for extraordinary costs defined in § 13-37-40;
 - (h) Sum the results of (a) through (f) to (g), inclusive;
- (19) ~~"Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort factor is the amount of taxes payable for the year divided by the amount of local effort as calculated in subdivision (7) the school district's special education tax levy in dollars per thousand divided by \$1.352. The maximum effort factor is 1.0.~~

Section 8. That § 13-37-36.1 be amended to read as follows:

13-37-36.1. To establish the school district special education fund statutory carryover ~~excluding federal funds, the following calculations shall be performed:~~

~~(1) Divide the total federal special education revenue by the total special education revenues; and~~

~~(2) Multiply the federal special education percentage calculated in (1) times the total special education fund balance; and~~

~~(3) Deduct the amount of federal revenue calculated in (2) from the special education fund balance, deduct from the total ending fund balance the amount of Title VIII of the Elementary and Secondary Education Act funds receipted or transferred to the special education fund.~~

Section 9. That § 13-37-40 be amended to read as follows:

13-37-40. Subject to the limitation in § 13-37-42, the secretary of the Department of Education shall, for school fiscal year ~~1999~~ 2014 and each year thereafter, set aside ~~5.75%~~ four million dollars of the state aid to districts for special education appropriation for extraordinary expenses incurred in providing special education programs or services to one or more children with disabilities, with expenditures to be made as recommended by an oversight board and approved by the secretary of the Department of Education. Any funds not expended or obligated pursuant to this section shall not be subject to reversion pursuant to § 4-8-19. ~~The maximum amount not subject to reversion is equal to 5.75% of the state special education appropriation. The total amount set aside for extraordinary expenses each fiscal year plus the total amount not reverted from previous fiscal years may not exceed six million dollars.~~

The amount appropriated for extraordinary expenses shall be recalculated at the same time as the amount of the allocations for disability levels as provided in § 13-37-35.2.

Section 10. That § 13-37-40.1 be amended to read as follows:

13-37-40.1. A school district is not eligible for funding from the money set aside in §§ 13-37-38 to 13-37-40, inclusive, unless the school district certifies to the secretary of education that its ending special education fund balance will not exceed ~~five~~ ten percent of its special education expenditures for the current fiscal year.

Section 11. That § 13-37-44 be amended to read as follows:

13-37-44. A school district's state aid for special education as calculated pursuant to § 13-37-36.1 ~~or 13-37-51~~ shall be reduced by the amount which its ending special education fund balance exceeds ~~twenty~~ twenty-five percent of its special education expenditures for the prior fiscal year or ~~fifty~~ one hundred thousand dollars, whichever is greater, if the school district did not receive money set aside in § 13-37-40 during the prior fiscal year; or the amount which its ending special education fund balance exceeds ~~five~~ ten percent of its special education expenditures for the prior fiscal year if the school district received money set aside in §§ 13-37-38 to 13-37-40, inclusive, during the prior fiscal year.

Section 12. That § 13-37-48.1 be repealed.

~~13-37-48.1. In addition to the purposes specified in § 13-37-40, money set aside pursuant to § 13-37-40 may be used by the Department of Education to establish and maintain a program to assist school districts with legal matters relating to special education, to employ personnel to audit school districts for compliance with the provisions of §§ 13-37-36.1 to 13-37-52, to establish and maintain state protocols to assist school districts in developing individualized education plans, to support activities under Part C of the Individuals with Disabilities Education Act, Infants and Toddlers with Disabilities, or to purchase assistive technology for students with a level two, three, four, or five disability.~~

~~Any approved K-12 application under the extraordinary cost fund must be funded prior to funding the Part C requests.~~

Section 13. That § 13-37-51 be repealed.

~~13-37-51. For the transition period from school fiscal year 2000 through school fiscal year 2003, state aid for special education shall be determined according to the following calculations:~~

~~(1) Multiply local need of a school district by 0.96 in school fiscal year 2000, 0.97 in school fiscal year 2001, 0.98 in school fiscal year 2002, and 0.99 in school fiscal year 2003;~~

~~(2) After making the adjustment to local need pursuant to subdivision (1) of this section, calculate state aid for special education pursuant to § 13-37-36.1;~~

~~(3) Subtract the result of subdivision (2) from the amount of state aid received pursuant to § 13-37-36.3 or 13-37-43 in school fiscal year 1999;~~

~~(4) Multiply the result of subdivision (3) by 0.80 in school fiscal year 2000, 0.60 in school fiscal year 2001, 0.40 in school fiscal year 2002, and 0.20 in school fiscal year 2003;~~

~~(5) Add the result of subdivision (2) to the result of subdivision (4);~~

~~(6) State aid for special education is the greater of the result of subdivision (2) or the result of subdivision (5).~~

Section 14. That § 13-37-53 be repealed.

~~13-37-53. If the parents or guardian of a child assigned to and enrolled in an out-of-district special education residential or tuition day program move to another South Dakota school district and that school district provides special education services to the child, the Department of Education shall allocate any state aid to special education attributable to the child received or scheduled to be received by the resident school district as defined by § 13-28-9.1 to the school district to which the parents or guardian have moved for the period of time that the resident school district is not providing special education services to the child. For the purposes of §§ 13-28-9.1 and 13-37-54, an approved special education program includes out-of-district residential programs and tuition day programs.~~

Section 15. That § 13-37-54 be amended to read as follows:

13-37-54. The Department of Education may promulgate rules pursuant to chapter 1-26 to provide for the reallocation of state aid to special education as provided for in §§ 13-28-9.1 and 13-37-53.

1 Section 16. That § 13-16-7.1 be amended to read as follows:

2 13-16-7.1. For taxes payable in ~~2011, 2012, 2013, 2014, and 2015~~, the provisions of §§ 13-
3 10-6, and 13-16-7, ~~13-37-16, and 13-37-35.1~~ that limit the maximum amount of revenue that
4 may be generated by the pension, and capital outlay, ~~and special education~~ tax levies do not
5 apply to any school district that has less than a ten percent change in the total taxable valuation
6 from the previous year of all real property in the school district, not including the increase of
7 value resulting from any improvements or change in use of real property."

8 28md

9 On the previously adopted amendment (28mc), in Section 9, delete "six million dollars"
10 and insert "five million five hundred thousand dollars".

11 28mta

12 On page 1, line 1, of the printed bill, delete everything after "revise" and insert "certain
13 property tax levies for school districts and to revise certain provisions regarding state aid to
14 education."

15 On page 1, delete line 2.

16 And that as so amended said bill do pass.

17 Also MR. PRESIDENT:

18 The Committee on Appropriations respectfully reports that it has had under consideration
19 SB 76 and returns the same with the recommendation that said bill be amended as follows:

20 76ce

21 On the Senate Education Committee engrossed bill, delete everything after the enacting
22 clause and insert:

23 "Section 2. There is hereby appropriated from the general fund the sum of one dollar (\$1),
24 or so much thereof as may be necessary, to the education service agencies established pursuant
25 to § 13-3-76.

26 Section 3. The secretary of education shall approve vouchers and the state auditor shall draw
27 warrants to pay expenditures authorized by this Act.

28 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall
29 revert in accordance with the procedures prescribed in chapter 4-8."

1 76ctb

2 On page 1, line 1, of the Senate Education Committee engrossed bill, delete everything
3 after "Act to" and insert "appropriate money to fund the education service agencies."

4 On page 1, delete line 2.

5 And that as so amended said bill do pass.

6 Also MR. PRESIDENT:

7 The Committee on Appropriations respectfully reports that it has had under consideration
8 SB 155 and returns the same with the recommendation that said bill be amended as follows:

9 155da

10 On page 2, line 12, of the printed bill, delete "five million dollars" and insert "one dollar
11 (\$1)".

12 On page 2, line 13, delete everything before ", or".

13 155ao

14 On page 1, between lines 10 and 11 of the printed bill, insert:

15 "Section 2. If a county imposes the maximum wheel tax pursuant to chapter 32-5A or
16 supplements road funds with general funds or other funds in an amount equal to or greater than
17 what may be generated from a wheel tax increase, the county shall be eligible for a grant under
18 this Act."

19 And that as so amended said bill do pass.

20 Also MR. PRESIDENT:

21 The Committee on Appropriations respectfully reports that it has had under consideration
22 SB 176 and returns the same with the recommendation that said bill be amended as follows:

23 176da

24 On page 1, line 4, of the printed bill, delete "five million nine" and insert "one dollar (\$1)".

25 On page 1, line 5, delete everything before ", or".

26 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 SB 208 and returns the same with the recommendation that said bill be amended as follows:

4 208oa

5 On page 1 of the printed bill, delete lines 11 and 12.

6 208da

7 On page 1, line 4, of the printed bill, delete "five million dollars" and insert "one dollar
8 (\$1)".

9 On page 1, line 5, delete everything before ", or".

10 And that as so amended said bill do pass.

11 Also MR. PRESIDENT:

12 The Committee on Appropriations respectfully reports that it has had under consideration
13 SB 218 and returns the same with the recommendation that said bill be amended as follows:

14 218mb

15 On page 1, line 4, of the Senate Judiciary Committee engrossed bill, before "program"
16 insert "pilot".

17 On page 1, line 6, after "assistance" insert "pilot".

18 On page 2, line 3, after "assistance" insert "pilot".

19 On page 2, line 6, after "assistance" insert "pilot".

20 On page 2, line 12, after "assistance" insert "pilot".

21 On page 2, line 16, after "assistance" insert "pilot".

22 On page 2, line 18, after "tuition" insert "and fees".

23 On page 2, line 24, delete "by the" and insert "in section 9 of this Act.".

24 On page 3, line 1, delete "Legislature for such purpose.".

1 On page 3, after line 23, insert:

2 "Section 9. There is hereby appropriated from the general fund the sum of six hundred
3 ninety-seven thousand four hundred twenty-seven dollars (\$697,427), or so much thereof as may
4 be necessary, to the Unified Judicial System to provide payments described in section 5 of this
5 Act.

6 Section 10. The Chief Justice shall approve vouchers and the state auditor shall draw
7 warrants to pay expenditures authorized by this Act.

8 Section 11. Any amounts appropriated in this Act not lawfully expended or obligated shall
9 revert in accordance with the procedures prescribed in chapter 4-8."

10 218oe

11 On page 2, after line 5, of the Senate Judiciary Committee engrossed bill, insert:

12 "Section 3. In making the selection of the participating counties, the Unified Judicial
13 System shall be guided by:

- 14 (1) Demographics of the county;
- 15 (2) Age and number of the current membership of the county bar;
- 16 (3) Recommendation of the presiding circuit judge;
- 17 (4) Programs of economic development within the county;
- 18 (5) Geographical location to other counties receiving assistance;
- 19 (6) Evaluation of the law student or attorney seeking assistance under this program;
- 20 (7) Existing or previous ties of the applicant to the county; and
- 21 (8) Prior participation by the county in this pilot program."

22 On page 3, after line 23, insert:

23 "Section 9. The Unified Judicial System shall annually file with the Legislative Research
24 Council a report on the status of the program."

25 218mc

26 In the previously adopted amendment (218mb), in Section 9, delete "six hundred ninety-
27 seven thousand four hundred twenty-seven dollars (\$697,427)" and insert "one dollar (\$1)".

28 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 SB 229 and returns the same with the recommendation that said bill be amended as follows:

4 229dc

5 On page 1, line 4, of the printed bill, delete everything after "one" .

6 On page 1, line 5, delete everything before "or" and insert "dollar (\$1),".

7 And that as so amended said bill do pass.

8 Also MR. PRESIDENT:

9 The Committee on Appropriations respectfully reports that it has had under consideration
10 SB 233 and returns the same with the recommendation that said bill be amended as follows:

11 233da

12 On page 5, line 13, of the Senate Education Committee engrossed bill, delete everything
13 after "of" and insert "one dollar (\$1),".

14 On page 5, line 14, delete everything before "or" .

15 And that as so amended said bill do pass.

16 Also MR. PRESIDENT:

17 The Committee on Appropriations respectfully reports that it has had under consideration
18 SB 236 and returns the same with the recommendation that said bill be amended as follows:

19 236da

20 On page 1 of the printed bill, delete lines 11 and 12.

21 236db

22 On page 1, line 5, of the printed bill, delete "nine hundred".

23 On page 1, line 6, delete everything before "or" and insert "one dollar (\$1),".

24 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 SB 163 and returns the same with the recommendation that said bill be amended as follows:

4 163fb

5 On the printed bill, delete everything after the enacting clause and insert:

6 "Section 1. Terms used in this Act mean:

7 (1) "Database," the auto insurance verification database created by this Act;

8 (2) "Designated agent," the third party that the division contracts with pursuant to this
9 Act;

10 (3) "Division," the Division of Motor Vehicles under the Department of Revenue;

11 (4) "Motor vehicle," a noncommercial motor vehicle for which license fees are
12 determined pursuant to §§ 32-5-6, 32-5-6.1, 32-5-6.3, and 32-5-9 and a commercial
13 motor vehicle for which license fees are determined pursuant to chapter 32-9;

14 (5) "Program," the auto insurance verification program created under this Act.

15 Section 2. There is created the auto insurance verification program to:

16 (1) Establish an auto insurance verification database to verify compliance with motor
17 vehicle owner's or operator's security requirements established by this Act;

18 (2) Assist in reducing the number of uninsured motor vehicles on the highways of the
19 state;

20 (3) Assist in protecting a financial institution's bona fide security interest in a motor
21 vehicle; and

22 (4) For other law enforcement purposes.

23 Section 3. The auto insurance verification program shall be administered by the division
24 with the assistance of the designated agent. The division shall enter into a contract with a third
25 party to establish and maintain an auto insurance verification database for the purposes
26 established under this Act. The third party under contract under this section is the division's
27 designated agent.

28 Section 4. The third party shall develop and maintain a computer database from the
29 information provided by:

1 (1) Insurers under sections 23 to 28, inclusive, of this Act, relating to motor vehicle
2 insurance reporting; and

3 (2) The Division of Motor Vehicles.

4 Section 5. The database shall be developed and maintained in accordance with guidelines
5 established by the division so that state and local law enforcement agencies and financial
6 institutions may efficiently access the records of the database, including reports useful for the
7 implementation of the provisions of this Act.

8 Section 6. The reports shall be in a form and contain information approved by the division.
9 The reports may be made available through the internet or through other electronic medium, if
10 the division determines that sufficient security is provided to ensure compliance with the
11 provisions of this Act regarding limitations on disclosure of information in the database.

12 Section 7. With information provided by the division, the designated agent shall, at least
13 twice monthly:

14 (1) Update the database with the motor vehicle insurance information provided by the
15 insurers in accordance with sections 23 to 28, inclusive, of this Act, regarding motor
16 vehicle insurance reporting; and

17 (2) Compare all current motor vehicle registrations against the database.

18 Section 8. The division shall provide the designated agent with the name, date of birth,
19 address, and driver license number of each person on the driver license database.

20 Section 9. The designated agent shall archive computer data files at least semiannually for
21 auditing purposes. The division may annually audit the program. If the audit is performed, the
22 audit shall include verification of the billings made by the designated agent and the accuracy of
23 the designated agent's matching of vehicle registration with insurance data.

24 Section 10. If the comparison required under the auto insurance verification database created
25 by this Act shows that a motor vehicle is not insured for three consecutive months, the division
26 shall direct that the designated agent to notify the owner of the motor vehicle that the owner has
27 fifteen days to provide:

28 (1) Proof of the owner's or operator's security in a form allowed under the provisions of
29 this Act; or

30 (2) Proof of exemption from the owner's or operator's security requirements.

31 Section 11. If an owner of a motor vehicle fails to provide satisfactory proof of owner's or
32 operator's security to the designated agent, the designated agent shall:

- 1 (1) Provide a second notice to the owner of the motor vehicle that the owner now has
2 fifteen days to provide proof of owner's or operator's security in a form allowed under
3 the provisions of this Act or proof of exemption from the owner's or operator's
4 security requirements;
- 5 (2) For each notice provided, the designated agent shall indicate information relating to
6 the owner's failure to provide proof of owner's or operator's security in the database;
7 and
- 8 (3) Provide this information to state and local law enforcement agencies as requested in
9 accordance with the provisions of this Act.

10 Any owner of a motor vehicle who provides a false or fraudulent proof of owner's or
11 operator's security to the division or designated agent is guilty of a Class 2 misdemeanor.

12 Section 12. The division shall revoke the registration of the motor vehicle upon receiving
13 notification from the designated agent of the owner's failure to comply with the provisions of
14 section 11 of this Act. The division shall provide appropriate notices of the revocation, the legal
15 consequences of operating a vehicle with revoked registration, and without owner's or operator's
16 security and instructions on how to get the registration reinstated. The division may direct the
17 designated agent to provide the notices required by this section.

18 Section 13. Any action by the division to revoke the registration of a motor vehicle pursuant
19 to this Act may be in addition to an action by a law enforcement agency to impose criminal
20 penalties pursuant to this Act.

21 Section 14. This Act does not affect other actions or penalties that may be taken or imposed
22 for violation of the owner's and operator's security requirements of this Act or any other law.

23 Section 15. No registration that has been revoked pursuant to this Act may be reinstated and
24 no new license or registration may be issued to the holder of the revoked registration until the
25 person pays an administrative reinstatement fee of one hundred dollars to the division and
26 complies with the other provisions of this Act. The fee imposed by this section is in addition to
27 any other fee imposed by law and shall be deposited in the uninsured motor vehicle fund
28 established by section 16 of this Act.

29 Section 16. There is hereby created in the state treasury the uninsured motor vehicle fund
30 for the purpose of paying the expenses for the auto insurance verification program. Interest
31 earned on money in the fund shall be deposited into the fund. Expenditures from this fund shall
32 be appropriated through the normal budgeting process.

33 Section 17. Information in the database established under this Act provided by any person
34 to the designated agent is considered to be the property of the person providing the information.
35 No information may be disclosed from the database pursuant to chapter 1-27, or otherwise,
36 except as follows:

- 1 (1) For the purpose of investigating, litigating, or enforcing the owner's or operator's
2 security requirement under this Act, the designated agent shall verify insurance
3 information through the state computer network for a state or local government
4 agency or court;
- 5 (2) For the purpose of investigating, litigating, or enforcing the owner's or operator's
6 security requirement under this Act, the designated agent shall, upon request, issue
7 to any state or local government agency or court a certificate documenting the
8 insurance information, according to the database, of a specific person or motor
9 vehicle for the time period designated by the government agency;
- 10 (3) Upon request, the division or its designated agent shall disclose whether or not a
11 person is an insured individual and the insurance company name to:
 - 12 (a) That person or, if that person is deceased, any interested person of that person,
13 as defined in Title 29A;
 - 14 (b) The parent or legal guardian of that person if the person is not an
15 unemancipated minor;
 - 16 (c) The legal guardian of that person if the person is legally incapacitated;
 - 17 (d) A person who has power of attorney from the insured person;
 - 18 (e) A person who submits a notarized release from the insured person dated no
19 more than ninety days before the date the request is made; or
 - 20 (f) A person suffering loss or injury in a motor vehicle accident in which the
21 insured individual is involved, but only as part of an accident report as
22 provided by § 32-12-61;
- 23 (4) For the purpose of investigating, enforcing, or prosecuting laws or issuing citations
24 by state or local law enforcement agencies related to the:
 - 25 (a) Registration and renewal of registration of a motor vehicle pursuant to chapter
26 32-5;
 - 27 (b) Purchase of a motor vehicle; and
 - 28 (c) Maintenance of financial responsibility required by § 32-35-113;
- 29 (5) Upon request of a law enforcement officer acting in an official capacity under the
30 provisions of subdivision (4) of this section, the division or the designated agent
31 shall, upon request, disclose relevant information for investigation, enforcement, or
32 prosecution;

1 (6) For the purpose of the division or other auditor of the state conducting audits of the
2 program; and

3 (7) Upon request of a financial institution as defined in subdivision 10-43-1(4) for the
4 purpose of protecting the financial institution's bona fide security interest in a motor
5 vehicle.

6 Section 18. The division may allow the designated agent to prepare and deliver upon
7 request, a report on the insurance information of a person or motor vehicle in accordance with
8 this section. The report may be in the form of:

9 (1) A certified copy that is considered admissible in any court proceeding in the same
10 manner as the original; or

11 (2) Information accessible through the internet or through other electronic medium if the
12 division determines that sufficient security is provided to ensure compliance with this
13 Act.

14 Section 19. Any person who knowingly releases or discloses information from the database
15 for a purpose other than those authorized by this Act or to a person who is not entitled to the
16 information is guilty of a Class 6 felony.

17 Section 20. No insurer is liable to any person for complying with this Act requiring motor
18 vehicle insurance reporting by providing information to the designated agent.

19 Section 21. Neither the state nor the designated agent are liable to any person for gathering,
20 managing, or using the information in the database as provided in this Act.

21 Section 22. For the purposes of this Act, the term, commercial motor vehicle insurance
22 coverage, means an insurance policy that includes motor vehicle liability coverage, uninsured
23 motorist coverage, underinsured motorist coverage, or personal injury coverage.

24 Section 23. Each insurer that issues a policy that includes motor vehicle liability coverage,
25 uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage shall
26 submit to the designated agent a record of each motor vehicle insurance policy in effect for any
27 vehicle registered or garaged in the state. The record shall be submitted to the designated agent
28 before the seventh and twenty-first day of each month as the previous submission that was
29 issued by the insurer.

30 Section 24. Each insurer that issues commercial motor vehicle insurance coverage shall,
31 before the seventh day of each month, provide to the designated agent a record of each
32 commercial motor vehicle insurance policy in effect for any vehicle registered or garaged in the
33 state as of the previous month that was issued by the insurer.

1 Section 25. Any record provided by an insurer pursuant to section 23 of this Act shall
2 include:

- 3 (1) The name, date of birth, and driver license number, if the insured provides a driver
4 license number to the insurer, of each insured owner or operator, and the address of
5 the named insured;
- 6 (2) The make, year, and vehicle identification number of each insured vehicle; and
- 7 (3) The policy number and effective date of each policy.

8 Each insurer shall provide this information by an electronic means or by another form the
9 designated agent agrees to accept.

10 Section 26. Any record provided by an insurer pursuant to section 24 of this Act shall
11 include:

- 12 (1) The named insured;
- 13 (2) The policy number, effective date, and expiration date of each policy; and
- 14 (3) The following information, if available:
 - 15 (a) The name, date of birth, and driver license number of each insured owner or
16 operator, and the address of the named insured; and
 - 17 (b) The make, year, and vehicle identification number of each insured vehicle.

18 Each insurer shall provide this information by an electronic means or by another form the
19 designated agent agrees to accept.

20 Section 27. The secretary of the Department of Revenue may assess a civil penalty against
21 an insurer of up to two hundred fifty dollars for each day the insurer fails to comply with this
22 Act. If an insurer shows that the failure to comply with the provisions of this Act was
23 inadvertent, accidental, or the result of excusable neglect, the secretary shall excuse the civil
24 penalty. Any money collected pursuant to this section shall be deposited in the uninsured motor
25 vehicle fund established by section 16 of this Act.

26 Section 28. There is hereby appropriated from the general fund the sum of six hundred
27 thousand dollars (\$600,000), or so much thereof as may be necessary, to the Department of
28 Revenue for the purpose of conducting an uninsured motorist identification database. The
29 division shall contract with a designated agent by October 1, 2013, to determine the feasibility
30 of the program. The designated agent shall implement the provisions of the program established
31 by this Act and report its findings to the division on the percentage of uninsured motor vehicles
32 in the state. The report shall be submitted to the division by February 28, 2014.

1 However, notification to the owner that the owner's motor vehicle is noncompliant with the
2 provisions of this Act is not required in this initial report. Nor may the division impose any fees
3 imposed by section 15 of this Act before July 1, 2014.

4 If the initial report shows the percentage of uninsured motor vehicles in South Dakota is less
5 than ten percent, then the contract with the designated agent shall be voided by June 30, 2014.
6 Any amounts appropriated in this section not lawfully expended or obligated by June 30, 2014,
7 if the program is voided, shall revert in accordance with the procedures prescribed in chapter
8 4-8. If the initial report shows the percentage of uninsured motor vehicles is ten percent or
9 greater, the division and the designated agent shall implement all of the provisions of this Act
10 beginning on July 1, 2014. The contract with the designated agent shall extend until June 30,
11 2016.

12 Section 29. The secretary of revenue shall approve vouchers and the state auditor shall draw
13 warrants to pay expenditures authorized by this Act.

14 Section 30. Any amounts appropriated in this Act not lawfully expended or obligated by
15 June 30, 2016, shall revert in accordance with the procedures prescribed in chapter 4-8."

16 163da

17 On the printed bill, delete everything after the enacting clause and insert:

18 "Section 1. Terms used in this Act mean:

- 19 (1) "Database," the auto insurance verification database created by this Act;
- 20 (2) "Designated agent," the third party that the division contracts with pursuant to this
21 Act;
- 22 (3) "Division," the Division of Motor Vehicles under the Department of Revenue;
- 23 (4) "Motor vehicle," a noncommercial motor vehicle for which license fees are
24 determined pursuant to §§ 32-5-6, 32-5-6.1, 32-5-6.3, and 32-5-9 and a commercial
25 motor vehicle for which license fees are determined pursuant to chapter 32-9;
- 26 (5) "Program," the auto insurance verification program created under this Act.

27 Section 2. There is created the auto insurance verification program to:

- 28 (1) Establish an auto insurance verification database to verify compliance with motor
29 vehicle owner's or operator's security requirements established by this Act;
- 30 (2) Assist in reducing the number of uninsured motor vehicles on the highways of the
31 state;

1 (3) Assist in protecting a financial institution's bona fide security interest in a motor
2 vehicle; and

3 (4) For other law enforcement purposes.

4 Section 3. The auto insurance verification program shall be administered by the division
5 with the assistance of the designated agent. The division shall enter into a contract with a third
6 party to establish and maintain an auto insurance verification database for the purposes
7 established under this Act. The third party under contract under this section is the division's
8 designated agent.

9 Section 4. The third party shall develop and maintain a computer database from the
10 information provided by:

11 (1) Insurers under sections 23 to 28, inclusive, of this Act, relating to motor vehicle
12 insurance reporting; and

13 (2) The Division of Motor Vehicles.

14 Section 5. The database shall be developed and maintained in accordance with guidelines
15 established by the division so that state and local law enforcement agencies and financial
16 institutions may efficiently access the records of the database, including reports useful for the
17 implementation of the provisions of this Act.

18 Section 6. The reports shall be in a form and contain information approved by the division.
19 The reports may be made available through the internet or through other electronic medium, if
20 the division determines that sufficient security is provided to ensure compliance with the
21 provisions of this Act regarding limitations on disclosure of information in the database.

22 Section 7. With information provided by the division, the designated agent shall, at least
23 twice monthly:

24 (1) Update the database with the motor vehicle insurance information provided by the
25 insurers in accordance with sections 23 to 28, inclusive, of this Act, regarding motor
26 vehicle insurance reporting; and

27 (2) Compare all current motor vehicle registrations against the database.

28 Section 8. The division shall provide the designated agent with the name, date of birth,
29 address, and driver license number of each person on the driver license database.

30 Section 9. The designated agent shall archive computer data files at least semiannually for
31 auditing purposes. The division may annually audit the program. If the audit is performed, the
32 audit shall include verification of the billings made by the designated agent and the accuracy of
33 the designated agent's matching of vehicle registration with insurance data.

1 Section 10. If the comparison required under the auto insurance verification database created
2 by this Act shows that a motor vehicle is not insured for three consecutive months, the division
3 shall direct that the designated agent to notify the owner of the motor vehicle that the owner has
4 fifteen days to provide:

5 (1) Proof of the owner's or operator's security in a form allowed under the provisions of
6 this Act; or

7 (2) Proof of exemption from the owner's or operator's security requirements.

8 Section 11. If an owner of a motor vehicle fails to provide satisfactory proof of owner's or
9 operator's security to the designated agent, the designated agent shall:

10 (1) Provide a second notice to the owner of the motor vehicle that the owner now has
11 fifteen days to provide proof of owner's or operator's security in a form allowed under
12 the provisions of this Act or proof of exemption from the owner's or operator's
13 security requirements;

14 (2) For each notice provided, the designated agent shall indicate information relating to
15 the owner's failure to provide proof of owner's or operator's security in the database;
16 and

17 (3) Provide this information to state and local law enforcement agencies as requested in
18 accordance with the provisions of this Act.

19 Any owner of a motor vehicle who provides a false or fraudulent proof of owner's or
20 operator's security to the division or designated agent is guilty of a Class 2 misdemeanor.

21 Section 12. The division shall revoke the registration of the motor vehicle upon receiving
22 notification from the designated agent of the owner's failure to comply with the provisions of
23 section 11 of this Act. The division shall provide appropriate notices of the revocation, the legal
24 consequences of operating a vehicle with revoked registration, and without owner's or operator's
25 security and instructions on how to get the registration reinstated. The division may direct the
26 designated agent to provide the notices required by this section.

27 Section 13. Any action by the division to revoke the registration of a motor vehicle pursuant
28 to this Act may be in addition to an action by a law enforcement agency to impose criminal
29 penalties pursuant to this Act.

30 Section 14. This Act does not affect other actions or penalties that may be taken or imposed
31 for violation of the owner's and operator's security requirements of this Act or any other law.

32 Section 15. No registration that has been revoked pursuant to this Act may be reinstated and
33 no new license or registration may be issued to the holder of the revoked registration until the
34 person pays an administrative reinstatement fee of one hundred dollars to the division and
35 complies with the other provisions of this Act. The fee imposed by this section is in addition to
36 any other fee imposed by law and shall be deposited in the uninsured motor vehicle fund
37 established by section 16 of this Act.

Section 16. There is hereby created in the state treasury the uninsured motor vehicle fund for the purpose of paying the expenses for the auto insurance verification program. Interest earned on money in the fund shall be deposited into the fund. Expenditures from this fund shall be appropriated through the normal budgeting process.

Section 17. Information in the database established under this Act provided by any person to the designated agent is considered to be the property of the person providing the information. No information may be disclosed from the database pursuant to chapter 1-27, or otherwise, except as follows:

- (1) For the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under this Act, the designated agent shall verify insurance information through the state computer network for a state or local government agency or court;
- (2) For the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under this Act, the designated agent shall, upon request, issue to any state or local government agency or court a certificate documenting the insurance information, according to the database, of a specific person or motor vehicle for the time period designated by the government agency;
- (3) Upon request, the division or its designated agent shall disclose whether or not a person is an insured individual and the insurance company name to:
 - (a) That person or, if that person is deceased, any interested person of that person, as defined in Title 29A;
 - (b) The parent or legal guardian of that person if the person is not an unemancipated minor;
 - (c) The legal guardian of that person if the person is legally incapacitated;
 - (d) A person who has power of attorney from the insured person;
 - (e) A person who submits a notarized release from the insured person dated no more than ninety days before the date the request is made; or
 - (f) A person suffering loss or injury in a motor vehicle accident in which the insured individual is involved, but only as part of an accident report as provided by § 32-12-61;
- (4) For the purpose of investigating, enforcing, or prosecuting laws or issuing citations by state or local law enforcement agencies related to the:
 - (a) Registration and renewal of registration of a motor vehicle pursuant to chapter 32-5;

1 (b) Purchase of a motor vehicle; and

2 (c) Maintenance of financial responsibility required by § 32-35-113;

3 (5) Upon request of a law enforcement officer acting in an official capacity under the
4 provisions of subdivision (4) of this section, the division or the designated agent
5 shall, upon request, disclose relevant information for investigation, enforcement, or
6 prosecution;

7 (6) For the purpose of the division or other auditor of the state conducting audits of the
8 program; and

9 (7) Upon request of a financial institution as defined in subdivision 10-43-1(4) for the
10 purpose of protecting the financial institution's bona fide security interest in a motor
11 vehicle.

12 Section 18. The division may allow the designated agent to prepare and deliver upon
13 request, a report on the insurance information of a person or motor vehicle in accordance with
14 this section. The report may be in the form of:

15 (1) A certified copy that is considered admissible in any court proceeding in the same
16 manner as the original; or

17 (2) Information accessible through the internet or through other electronic medium if the
18 division determines that sufficient security is provided to ensure compliance with this
19 Act.

20 Section 19. Any person who knowingly releases or discloses information from the database
21 for a purpose other than those authorized by this Act or to a person who is not entitled to the
22 information is guilty of a Class 6 felony.

23 Section 20. No insurer is liable to any person for complying with this Act requiring motor
24 vehicle insurance reporting by providing information to the designated agent.

25 Section 21. Neither the state nor the designated agent are liable to any person for gathering,
26 managing, or using the information in the database as provided in this Act.

27 Section 22. For the purposes of this Act, the term, commercial motor vehicle insurance
28 coverage, means an insurance policy that includes motor vehicle liability coverage, uninsured
29 motorist coverage, underinsured motorist coverage, or personal injury coverage.

30 Section 23. Each insurer that issues a policy that includes motor vehicle liability coverage,
31 uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage shall
32 submit to the designated agent a record of each motor vehicle insurance policy in effect for any
33 vehicle registered or garaged in the state. The record shall be submitted to the designated agent
34 before the seventh and twenty-first day of each month as the previous submission that was
35 issued by the insurer.

Section 24. Each insurer that issues commercial motor vehicle insurance coverage shall, before the seventh day of each month, provide to the designated agent a record of each commercial motor vehicle insurance policy in effect for any vehicle registered or garaged in the state as of the previous month that was issued by the insurer.

Section 25. Any record provided by an insurer pursuant to section 23 of this Act shall include:

- (1) The name, date of birth, and driver license number, if the insured provides a driver license number to the insurer, of each insured owner or operator, and the address of the named insured;
- (2) The make, year, and vehicle identification number of each insured vehicle; and
- (3) The policy number and effective date of each policy.

Each insurer shall provide this information by an electronic means or by another form the designated agent agrees to accept.

Section 26. Any record provided by an insurer pursuant to section 24 of this Act shall include:

- (1) The named insured;
- (2) The policy number, effective date, and expiration date of each policy; and
- (3) The following information, if available:
 - (a) The name, date of birth, and driver license number of each insured owner or operator, and the address of the named insured; and
 - (b) The make, year, and vehicle identification number of each insured vehicle.

Each insurer shall provide this information by an electronic means or by another form the designated agent agrees to accept.

Section 27. The secretary of the Department of Revenue may assess a civil penalty against an insurer of up to two hundred fifty dollars for each day the insurer fails to comply with this Act. If an insurer shows that the failure to comply with the provisions of this Act was inadvertent, accidental, or the result of excusable neglect, the secretary shall excuse the civil penalty. Any money collected pursuant to this section shall be deposited in the uninsured motor vehicle fund established by section 16 of this Act.

Section 28. There is hereby appropriated from the general fund the sum of one dollar (\$1) to the Department of Revenue for the purpose of conducting an uninsured motorist identification database. The division shall contract with a designated agent by October 1, 2013, to determine the feasibility of the program. The designated agent shall implement the provisions of the program established by this Act and report its findings to the division on the percentage of

1 uninsured motor vehicles in the state. The report shall be submitted to the division by
2 February 28, 2014.

3 However, notification to the owner that the owner's motor vehicle is noncompliant with the
4 provisions of this Act is not required in this initial report. Nor may the division impose any fees
5 imposed by section 15 of this Act before July 1, 2014.

6 If the initial report shows the percentage of uninsured motor vehicles in South Dakota is less
7 than ten percent, then the contract with the designated agent shall be voided by June 30, 2014.
8 Any amounts appropriated in this section not lawfully expended or obligated by June 30, 2014,
9 if the program is voided, shall revert in accordance with the procedures prescribed in chapter
10 4-8. If the initial report shows the percentage of uninsured motor vehicles is ten percent or
11 greater, the division and the designated agent shall implement all of the provisions of this Act
12 beginning on July 1, 2014. The contract with the designated agent shall extend until June 30,
13 2016.

14 Section 29. The secretary of revenue shall approve vouchers and the state auditor shall draw
15 warrants to pay expenditures authorized by this Act.

16 Section 30. Any amounts appropriated in this Act not lawfully expended or obligated by
17 June 30, 2016, shall revert in accordance with the procedures prescribed in chapter 4-8."

18 And returns the same without recommendation.

19 Also MR. PRESIDENT:

20 The Committee on Appropriations respectfully reports that it has had under consideration
21 SB 2, 131, 140, 172, 188, 191, 193, 196, 217, 231, and 241 which were tabled.

22 Also MR. PRESIDENT:

23 The Committee on Appropriations respectfully reports that it has had under consideration
24 SB 234 which was deferred to the 41st Legislative Day.

25 Respectfully submitted,
26 Deb Peters, Chair

27 Sen. Olson moved that HB 1019, 1020, 1091, 1011, 1071, 1072, 1073, 1074, 1125, 1127,
28 1070, 1035, and 1153 be deferred to Wednesday, February 20, the 26th legislative day.

29 Which motion prevailed.

COMMEMORATION

SC 13 Introduced by: Senators Rave, Adelstein, Begalka, Bradford, Brown, Buhl, Ewing, Frerichs, Holien, Hunhoff (Jean), Johnston, Jones, Kirkeby, Krebs, Lederman, Lucas, Maher, Monroe, Novstrup (Al), Olson (Russell), Omdahl, Otten (Ernie), Peters, Rampelberg, Rhoden, Soholt, Sutton, Tidemann, Tieszen, Vehle, Welke, and White and Representatives Lust, Bartling, Bolin, Cammack, Campbell, Carson, Conzet, Craig, Cronin, Dryden, Duvall, Ecklund, Erickson, Feickert, Feinstein, Gibson, Gosch, Greenfield, Hagggar (Don), Hagggar (Jenna), Hajek, Hansen, Hawks, Hawley, Heinemann (Leslie), Heinert, Hickey, Hoffman, Hunhoff (Bernie), Johns, Kaiser, Killer, Kirschman, Kopp, Latterell, Magstadt, May, Mickelson, Miller, Munsterman, Nelson, Novstrup (David), Olson (Betty), Otten (Herman), Parsley, Peterson, Qualm, Rasmussen, Ring, Romkema, Rounds, Rozum, Russell, Schaefer, Schoenfish, Schrempp, Sly, Soli, Solum, Stalzer, Steele, Stevens, Tulson, Tyler, Verchio, Werner, Westra, Wick, Wink, and Wismer

A LEGISLATIVE COMMEMORATION, Honoring the crew of North Carolina Air National Guard, MAFFS (Modular Airborne Firefighting System) 7, 145th Airlift Wing, Charlotte, North Carolina.

WHEREAS, a wildland fire ignited around 4:00 p.m. on June 29, 2012, in the Black Hills near Edgemont, South Dakota. The wildland fire was later designated as the White Draw Fire; and

WHEREAS, the White Draw Fire had grown to over 2,000 acres by June 30, 2012, requiring the assignment of two military C-130 MAFFS air tankers to assist in suppressing the fire; and

WHEREAS, the North Carolina National Guard C-130 known as MAFFS 7 crashed in the Black Hills of South Dakota while fighting the White Draw Fire on July 1, 2012, at approximately 6:30 p.m.; and

WHEREAS, Lieutenant Colonel Paul K. Mikeal, Major Joseph "Joe" M. McCormick, Major Ryan S. David, and Senior Master Sergeant Robert "Robbie" S. Cannon perished in the accident and two other crew members were seriously injured; and

WHEREAS, the White Draw Fire ultimately consumed approximately 9,000 acres of the Black Hills by the time it was contained on or about July 13, 2012. The efforts of the crew of MAFFS 7 to suppress the White Draw Fire contributed to the eventual containment of the fire:

NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the State of South Dakota, that the MAFFS 7 crew be honored for their service to the citizens of South Dakota.

Sen. Rampelberg moved that the Senate do now adjourn, which motion prevailed and at 3:51 p.m. the Senate adjourned.

Jeannette Schipper, Secretary